amo REPORT

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89-2 AMO RESPONSE TO "FINANCING GROWTH-RELATED CAPITAL NEEDS"

THE ASSOCIATION OF MUNICIPALITIES OF ONTARIO
FEBRUARY, 1989

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ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Association of Municipalities of Ontario is a non-partisan voluntary organization united to promote the values of the municipal government system and the status of the municipal level of government as a vital and essential component of the total inter-governmental framework of Ontario and Canada.

The Association acts as the collective voice of Ontario's municipal governments and is organized to accomplish through cooperation and coordination, what the majority have neither the time nor the resources to do individually.

The Association represents some seven hundred (700) municipal governments throughout Ontario. The governing body is composed of some eighty (80) municipal elected and appointed officials, who in turn represent a wide-range of municipal government interests.

The following Sections and affiliated municipal professional associations form an important part of the Association's structure and therefore, play an important part in its activities in terms of the Board of Directors, program and policy development:

Association Sections

* County and Regional Section
* Large Urban Section
* Northern Ontario Section (FONOM/NOMA)
* Rural Section (ROMA)
* Small Urban Section (OSUM)

Association Affiliates:

* Association of Municipal Clerks and Treasurers of Ontario
* Association of Municipal Tax Collectors of Ontario
* Municipal Engineers Association
* Ontario Municipal Administrators Association
* Ontario Municipal Personnel Association
* Ontario Municipal Social Services Association
* Society of Directors of Municipal Recreation of Ontario
* Urban Finance Officers Association of Ontario

To the Municipal Clerk:

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This report was forwarded to the Honourable David Peterson Premier of Ontario, the Honourable Robert Nixon, Treasurer of Ontario, the Honourable John Eakins, Minister of Municipal Affairs, the Honourable Chaviva Hosek, Minister of Housing and the Honourable Chris Ward, Minister of Education on February 15, 1989.

I INTRODUCTION

Since 1982, the Association and many of its member municipalities have endeavored to obtain a clear, firm legislative basis for the collection of lot levies. More recently, AMO worked together with the Ministry of Municipal Affairs, the Urban Development Institute and the Ontario Home Builders Association to resolve the issue of growth related development charges.

The release of the Green Paper, Financing of Growth-Related Capital Needs, on December 12th, 1988, by the Honourable Robert Nixon, Treasurer of Ontario, is an initiative much welcomed by AMO. In offering its appreciation and support to many of the recommendations within the Green Paper, the Association must, nonetheless, record its strong objection to certain other aspects. AMO's major concerns are:

1. The introduction of lot levies for school purposes is most disturbing to AMO. It is a step in the opposite direction from the path which education financing should be taking; that is, away from a property tax base and towards a more progressive tax base.

2. It is alarming to see the Province of Ontario moving to participate in the lot levy field. The reduction in the school capital grant percentage from 75% to 60% can be interpreted in no other way.

3. Eliminating furniture, fixtures and equipment from the definition of capital costs is neither theoretically sound nor minor in magnitude. This provision would probably result in a decrease in existing lot levy charges for most municipalities that currently have an analytically-supported lot levy system.

AMO therefore recommends that,

- **LOT LEVIES FOR SCHOOL PURPOSES NOT BE INTRODUCED;**

- **THE CAPITAL GRANT PROGRAM TO SCHOOL BOARDS SHOULD NOT BE REDUCED;**

- **GROWTH-RELATED CAPITAL COSTS BE DEFINED TO INCLUDE FIXTURES AND EQUIPMENT.**

If the green paper were to be legislated without change, there would be a major negative impact on municipal finance and housing prices in Ontario. A summary of the AMO position on the green paper is listed below.

Features of Green Paper Supported by AMO

1. Provides legislative authority for a municipality to establish lot levy fees on a permissive basis.

2. Provides legislative authority for municipalities to establish front-end financing arrangements on a permissive basis and to reimburse developers for up-front investments. This is linked to lot levy legislation.

3. Lot levy by-laws will have a maximum duration of five years with earlier revision at the discretion of the municipality, but not others.

4. Appeal of the lot levy by-law to the OMB is available within 20 days of its adoption, but not thereafter. The appeal will not delay the development process (a major concession by AMO).

5. Revisions made by the OMB on appeal, apply to all developers, not just the appellant.

6. A phase-in period is provided.

7. Calculation of the lot levy features:

   a. present value calculation;

   b. costs are net of government grants, contributions and reserves;

   c. uniform levies are permissible, as are directly attributable costs;

   d. average costing is acceptable;

   e. costs include only growth-related projects that relate to existing levels of service;

   f. where work is requested by the municipality, developers will receive credit for such constructed works consented to or requested by the municipality;

   g. levies may be indexed semi-annually;

   h. levies could be collected at building permit issuance, or earlier as agreed by the municipality and the developer;

   i. levies can be charged against all types of development;

   j. fees are credited to at least one reserve fund subject to full accountability and full disclosure;

   k. growth-related capital costs are completely chargeable.

8. Front-end financing provisions are:

   a. registration against the property is not required;

   b. the process is permissive;

   c. municipal liability is limited to remitting collected fees;

   d. the municipality can define a benefitting area and determine a unit charge for recovering up-front costs;

   e. the unit charge can be indexed;

   f. proceeds would go into a special account subject to full accountability and disclosure.

Features of Green Paper Strongly Opposed by AMO

1. Authority to charge lot levies is being extended to school boards.
2. The Province of Ontario, through reductions in school capital grants from 75% to 60% is, in effect, entering the lot levy field.
3. Eligible capital costs do not include rolling stock, furniture, fixtures or equipment.

Features Not Addressed of Concern to AMO

1. The phase-in period is one year, not two years.
2. Specifications of existing levels of service are vague.
3. The requirement for public input at the lot levy approval phase is unclear.
4. Charging lot levies in instances of changing density is not addressed.
5. The question of prezoned land is not addressed.

II OBJECTIVES AND APPROACH

Objectives

With respect to the "Objectives for Financing Capital Growth" as identified in the green paper, AMO takes the following position:

- ***provide structure and accountability for existing municipal lot levies;***

  AMO supports for existing and future municipal lot levies.

. *ensure a uniform approach to municipal front-end financing;*

AMO supports.

. *accelerate the rate of school capital construction to reduce the backlog and accommodate new growth;*

AMO agrees that the objective is appropriate, but disagrees that a lot levy for school purposes is an appropriate way to achieve that objective.

Since the Province of Ontario has frozen its level of support for school board capital programs at the 1988 level of $300 million for 1989 and since the backlog of capital needs in this area is $1.7 billion, the Government of Ontario has avoided its responsibility by pretending that a lot levy for school purposes would solve the problem. In fact, it would not even begin to address the problem.

. *provide increased responsibility for capital to school boards by moving their share from the current 25 per cent to 40 per cent on average, coupled with new revenue sources and financing options;*

AMO does not take a position on the need for increased responsibility for capital to school boards. However, the thrust of the program set out in this paper, to ostensibly achieve this objective, represents an intrusion of the Province of Ontario into the municipal lot levy revenue base, which AMO strongly opposes.

. *support the Provincial policy on affordable housing;*

AMO supports the principle of affordable housing, but the program described in this paper has the effect of moving the Province into the area of lot levies and would not achieve affordable housing.

. *ensure that new development shoulder some of the burden of the capital costs associated with that growth;*

AMO supports, but should be <u>all</u> of the burden of growth.

. *provide flexibility in financing arrangements*

AMO supports.

<u>The AMO response to the Provincial approach, described in the green paper is as follows:</u>

1. *Enable municipalities to use lot levies to recover from the various classes of residential, commercial and industrial property up to 100 per cent of net growth-related capital.*

AMO agrees.

2. *Enable school boards to use lot levies to recover from the various classes of residential property up to 100 per cent of net growth-related capital costs (i.e., new pupil places).*

   AMO disagrees.

3. *Limit the municipal and education levies on affordable houses to a maximum of 60 per cent of the levies on other houses.*

   AMO disagrees.

4. *Lever a greater amount of school construction from current Provincial grant levels by decreasing the average Provincial rate of support on approved school capital from 75 per cent to 60 per cent.*

   AMO disagrees.

5. *Reduce school board borrowing costs, particularly for smaller school boards, by providing them with access to Canada Pension Plan funds for approved capital projects. Priority access would be given to those boards facing the highest borrowing costs. The existing policy, allowing the use of debentures for capital needs, will be maintained.*

   AMO agrees.

6. *Encourage boards to pursue alternative means of financing. Boards could negotiate with developers to provide payment in kind (e.g. facilities of land) instead of paying lot levies.*

   AMO is neutral to the encouragement of school boards to pursue alternative means of financing, but disagrees where any approach using lot levies is applied.

7. *Provide legislative authority for municipalities to establish front-end financing arrangements at their discretion, and to reimburse developers for building oversized sewer, water and road services.*

   AMO agrees.

Legislative Implications

- *A Development Charges Act would be required to provide the authority for municipalities to establish and adopt lot levy by-laws for their own purposes and for school board purposes. Lot levies would be introduced at the option of the municipality or school board, the school board doing so by way of a request to a municipality. All lot levy by-laws would be subject to appeal at the Ontario Municipal Board. The Act would also be required to provide the authority for municipalities to establish front-end financing arrangements.*

  AMO agrees to the extent of providing authority for municipal lot levies, appeal to the Ontario Municipal Board and front-end financing.

AMO disagrees with extending lot levy authority to school boards.

Timing of Implementation

- *The Government plans to introduce legislation to implement a strategy during the next session of the Legislature. The timing of implementation, including whether legislation should be effective from introduction of the Bill or on Royal Assent, is subject to consultation. Until a Bill is introduced, municipalities are asked to hold lot levies at their current levels to provide certainty to all parties.*

AMO objects to the Treasurer of Ontario requesting municipalities to hold lot levies at their current level. It is unrealistic to expect municipalities to follow such a request, because:

- lot levy indexing is almost automatic and is required to provide adequate funding for growth - related capital projects;

- provincial grant levels have been reduced drastically for some municipalities for 1989. This could have significant impact on the municipality's ability to finance its capital program and the supportable level of lot levy charges.

- the Province may not enact lot legislation during the next session of the Legislature, thus creating financial hardship for some municipalities from a protracted lot levy freeze.

- Provincial responsibilities that have an impact on growth-related capital costs are constantly being transferred to the municipal level of government.

III MUNICIPAL LOT LEVIES

The AMO position on Municipal Lot levies is set out below:

Certainty

. *In the interest of certainty and stability, an unamended by-law should have a duration no longer than five years. To remain in force after five years, a new by-law must be enacted to give the municipality legal authority to collect lot levies.*

AMO agrees.

Right of Appeal

. *Under the proposed system of appealing lot levy by-laws, anyone who disagreed with the by-law could appeal to the OMB within 20 days of its adoption. The OMB would have the authority to alter the lot levy amount, based on evidence presented. This would ensure that the municipality prepares its case thoughtfully and thoroughly with regard to the intent of the legislated framework. Once the appeal period had elapsed, no further appeals would be permitted, with the exception of appeals on by-law amendments, until a new by-law has been established.*

. *During an appeal, developers could proceed with construction without delay, by paying the lot levy set out in the by-law. Any amounts in excess of those allowed by the OMB would be refunded with interest.*

AMO agrees, except:

a. The legislation could result in greatly increased workload for the OMB. The Province should undertake to increase OMB staff with sufficient qualified and knowledgeable staff to cope with the workload within a reasonable time. Otherwise, the proposed lot levy appeal system would be unworkable.

b. Appeals should only be available to persons with a direct interest as defined in the Planning Act.

c. It is noted that the procedure allows for developers to proceed with construction during the appeal process. Agreement by AMO on this point is a major concession.

Phase-In Provisions

. *The concept of a phase-in period for new lot levy by-laws has been unanimously supported by the Urban Development Institute, the Ontario Home Builders' Association and the Association of Municipalities of Ontario. A maximum of one year would be granted for municipalities' by-laws to conform with the legislation. In the interim, the existing lot levy policy would be in effect. After the phase-in period, no lot levy charges could be collected until a new lot levy by-law was adopted.*

AMO agrees, except the phase in should be two years. If only one year were provided for a phase-in , it is doubtful that the municipal and OMB workloads resulting could be accommodated even with increased staff.

Eligible Cost

. *Municipalities would be permitted to recover up to 100 per cent of the growth related capital costs of all services (both hard, e.g. sewers, and soft, e.g. arenas). It is proposed that capital would be defined as land, buildings and associated financing and acquisition costs. Capital would not include expenditures required to maintain the ongoing operations of the facility or to acquire rolling stock, furniture, fixtures or equipment. This definition of capital cost is simple and verifiable by the OMB. It has been estimated that these capital costs represent 80 to 90 per cent of the total cost of establishing most new municipal service facilities.*

In the determination of the capital cost for each facility, the municipality would calculate the present value of the capital expenditure, net of any government grants, previous contributions and any and all reserves specifically earmarked for that capital expenditure.

AMO disagrees:

a. Growth-related capital is not restricted to real property. Rolling stock, furniture, fixtures and equipment can be a significant portion of a municipality's growth-related capital costs, much in excess of the green paper's unsupported estimate of 10 to 20 per cent. In addition to library books and shelving, these costs also include:

. equipment and fixtures in a sewage or water treatment plant (this can amount to more than half the cost)
. fire trucks
. waste collection vehicles
. transit vehicles
. heating and cooling systems
. heavy equipment

b. Caution in crediting all reserves to a lot levy calculation must be exercised to ensure that the reserves pertain to the relevant situation and not to prior growth.

Methods of Calculating Lot Levy Charges

. *On December 19, 1985, in response to the petition to Cabinet on the OMB decision regarding Mod-Aire v. Bradford, 1984 Cabinet issued the following guidelines.*

a) It is within the power of a municipality to establish uniform lot levies, provided that there is a reasonable relationship between the proposed levies

and the overall costs to the municipality attributable to growth with respect to the services covered by the levies; and

b) There need not be a direct relationship between the additional cost incurred by the municipality and the utilization of any given service that is the subject of the levy. A lot levy may be a combination of a uniform levy for average costed services and any additional amounts for other services financed as directly attributable to the subdivision proposed to charged.

. *The primary rationale for introducing a lot levy is that a municipal council should be able to require new development to pay the capital costs associated with servicing growth. Therefore, only those capital expenditures incurred or expected to be incurred by the municipality within a reasonable time frame, that specifically serve or benefit new development, would be included in the determination of the lot levy charge.*

Municipalities that have no existing lot levy policy or have a relatively insignificant one, and that have outstanding capital commitments attributable to recent growth, would not include any amounts related to previous development in lot levy calculations.

AMO agrees, except.

a. provincially established standards, if higher, would qualify as "existing".

b. AMO would be consulted in advance, before guidelines on methods were established by the Province.

Credit for Works Constructed by Developers

. *A developer may be required by the municipality to construct external capital facilities in order for a particular development to proceed. These works may form part of the overall municipal service system, be installed with the consent or at the request of the municipality and be included in determining the lot levy charge. If so, the developer should receive credit against the lot levies. Developers who are dissatisfied with the compensation may appeal to the OMB with all pertinent information.*

AMO agrees.

Indexation of Levies

. *Municipalities would be permitted to increase their lot levy charges on an annual or semi-annual basis in accordance with the Southam Construction Price Index or any other index. This would ensure that lot levy charges keep abreast of inflation for the years between reviews.*

AMO agrees.

Timing of Payments

. *Lot levy charges would be payable by the developer when the building permit is granted. This is adequate for municipal funding requirements because the majority of the services financed by the lot levy (with the possible exception of roads, sewer and water costs) are installed after much of the growth has occurred. Municipalities and developers may agree to prepayment of a portion of the levies to facilitate the early construction of major works. Corresponding adjustments would be made to the final levy amounts. Conversely municipalities would choose to allow developers to pay at a later date, such as when the first lots are sold.*

AMO urges a more flexible approach. Municipalities should also have the legislated option to collect at the time of the execution of the sub-division agreement.

The concept that lot levies are payable on the issuance of the building permit suggests to AMO that there should be a "sunset" clause for the time frame of development of the land. Land owners should not be able to "hold" land for an undetermined length of time, without initiating actual development.

Collection of Upper Tier-Levies

. *All development must be processed though the lower tier. It would be reasonable if the responsibility for collection for all local governments rested with the lower tier. The upper tier's lot levy would be credited to its account within 90 days of collection, unless an extension was agreed to by the upper tier.*

AMO only partially agrees. Levies should be collected at the same time by the upper and lower tier municipalities preferably at the building permit stage, unless otherwise agreed to. Also AMO sees no reason for local municipalities to hold lot levy funds for more than 45 days.

Classes of Development

. *Municipal lot levies might be charged on commercial and industrial as well as residential development, subject to the requirement that the levies charged against commercial and industrial residential development only recover the growth-related capital costs of that particular class.*

AMO agrees.

Accounting and Disclosure Requirements

. *There is strong support for the concept of full accountability with respect to the accumulation and utilization of lot levy receipts.*

. *A municipality that adopts a lot levy by-law should establish, as a minimum, one reserve fund to account for all lot levy receipts. In addition, the Treasurer of each municipality, (must issue) a statement of continuity for each reserve fund established for the year ended December 31st.*

- *Each statement of reserve fund continuity would include an addendum which indicates, on a project-by-project basis, the intended application of the amounts transferred to the capital fund. Municipalities would be obliged to inform all new homebuyers in areas subject to lot levies, of the levy amounts and their intended uses. This would further enhance the accountability of the municipality. Where lot levy funds initially transferred to the capital fund are reallocated during the year to a project that is functionally different, this realignment should also be noted. The intent is that each municipality would institute an internal structure of accountability that would readily permit it to respond to concerns that might be subsequently raised regarding the application or appropriateness of the lot levies imposed.*

  AMO agrees with the intention of providing full accounting and disclosure. However, AMO resents the implication that existing procedures of accounting and disclosure are inadequate and require reinforcement. In fact municipal accountability is the most advanced and open of any level of government in Canada by a significant margin. The requirement to inform all new homebuyers in areas subject to lot levies, of the levy amounts and their intended uses constitutes duplication and the inefficient use of limited resources.

Public Input

The questions of "public input" during the process of establishing a municipal lot levy by-law has not been specifically addressed in this paper, but has been indirectly referred to in the discussion of School Purpose Lot Levies. It is assumed that legislation would require at least one meeting to inform the public about the determination of the municipal lot levy charge and its application. AMO would agree with this provision if it were adopted.

IV SCHOOL PURPOSE LOT LEVIES

The financing of the elementary and secondary education systems through property taxes has long been criticized as inappropriate. The Smith Commission of 1969 and the Blair Commission of 1978 are notable examples of this. Because education is a learning process that prepares people to enhance their earning capability, it is far more appropriate that it be funded through income taxes and other progressive forms of taxation.

The AMO Policy on education finance, as adopted at the AMO Annual Conference in August, 1988, is:

> "E-02 - Education Finance
> Since the benefits of a good education system are not directly related to property but extend throughout the community, the province, and the nation, educational costs should be entirely financed from forms of tax revenue other than the property tax.
>
> E-03 - Education Transfers
> Until the foregoing has been achieved, the annual grants to boards of education must be announced and paid at the earliest possible date each year so that municipal councils will have the necessary information to complete the property tax calculation."

The intention, expressed in the green paper of extending the authority to charge lot levies for school purposes is movement away from eliminating education from the property tax system. This, in itself, should be sufficient to cancel the plan.

The introduction of lot levy for school purposes can have a range of impacts, depending on the economic climate. Any additional costs on a home will work itself through the economy in a number of ways. A lot levy is shared by a combination of lowered developer profit margins, lowered prices paid for raw land to a farmer in most cases, and higher house prices. With respect to the higher house prices the trade-off is between a higher house price or higher municipal taxes and lowered services. All three of these factors will be affected to a greater or lesser extent.

Developers would not make such strong representations if the house price argument was the only argument. Surely as house prices rise the demand for the house will fall and developers must lower prices in order to satisfy the market place. They in turn will pass along this reduced return to them by negotiating with the raw land owners.

This does not mean that there is not some bottom line impact on the actual purchase price of the house. To the extent that the municipality bears the increased capital costs of new growth it is reflected in increased taxes and sewer and water rates which all residents, new and existing, must pay. Municipalities have been accountable and on-record stating that new residents will pay these costs upfront.

It is not argued that the education system does not need additional capital funding sources, rather it is argued that lot levies are not an appropriate vehicle to achieve this.

If the Province of Ontario persists is imposing a school purpose lot levy, the system proposed in the green paper is unworkable. Some of the reasons for this are:

- A school purpose lot levy would be created by a school board resolution asking the municipality to pass the appropriate by-law. It is the by-law that would be subject to appeal at the OMB. The municipality would then be placed in the impossible situation of defending a lot levy by-law with which it had no influence in establishing.

- If one school board established a levy and another co-terminus school board followed suit, but at a much lower rate, then the taxpayers supporting the first board could be partially subsidizing the second since drawings from the common lot levy fund is independent of contributions to it and are at the authorization of the Ministry of Education.

- The proposed system could foster controversy or even animosity between municipalities and school boards. For reasons of fostering economic development, a municipality may decide to forego a lot levy charge. A decision by a school board in the municipality to charge a lot levy would not only negate the municipal initiative, but the municipality would be forced to introduce a procedure for collecting the unwanted levies.

- The education methodology requires a basis in the Multi-Year Capital Expenditures Forecast which could well be an unreasonable time frame for proper capital planning and could also be inconsistent with the municipality's time frame.

- The proposed system is vague in identifying whether all co-terminus boards would have the same levy, different levies going into one pool with equal rights to withdraw, or a levy for all boards equal to that established by the first board to establish a rate. All of these systems are inequitable.

- Co-terminus school boards are not defined and no mention is made of non-co-terminus boards. Where these exist, no system has been proposed.

- The designation of non-growth areas is counter to the concept of a uniform lot levy.

- The Province plans to move into the lot levy field by reducing capital grants to school boards from 75% to 60%. This is a decrease to be applied across the Province. School boards are expected to make up the difference from lot levies, an "optional" alternative. In these circumstances, school boards are forced to "opt" for lot levies, whether justifiable or not and has the effect of transferring $100 million from Provincial revenues to the municipal level.

- Collection by lower-tier municipalities involves increased demand on scarce resources and their administrations. This has apparently not been contemplated in the Province's analysis.

- Lot levies cannot be used to replace portables or convert them to permanent structures, where they are not capital costs related to <u>future</u> growth. Yet, the green paper preamble implies that these requirements are the primary justification for introducing an education lot levy.

- An education lot levy benefits a few urban high growth school boards, but the cost, through reduced capital support by the Province, hits all school boards.

- The stated problems of education capital financing cry for solutions other than an education lot levy, which is inappropriate, inadequate and damaging to municipalities and housing initiatives.

V AFFORDABLE HOUSING

The Province of Ontario expresses concern for affordable housing on the one hand, while moving to increase the cost of affordable housing and reasonable priced housing on the other. The green paper would limit the amount of levy chargeable on what they have yet to define as "affordable housing."

In existing affordable housing initiatives, the lot levy is included in the capital costs of the building which ultimately is subsidized by the Provincial and Federal governments. By proposing to cap the levy on affordable housing at 60%, the Province is reducing its subsidy on affordable housing and passing it directly to municipalities. If the municipality does not collect 40% of the levy on affordable housing it does not mean it can reduce 40% of its capital infrastructure. The same sewer and water and roads and day care and police facilities would have to be built. The only difference is that the capital cost of the facility is reduced and the federal and Provincial subsidy is reduced. It will make no difference to the rent of the tenants in those facilities. In effect, the Provincial level of government is burdening the municipal government with funding of affordable housing, a Provincial responsibility.

AMO adopted policies on housing programs at the AMO Annual conference in August, 1988. The pertinent policies are:

> "H-01 - Policy
> A basic human need is the availability of clean, warm shelter in good repair. To satisfy the needs of the present and future citizens of the Province of Ontario and to be consistent with the economic situation of these citizens, a board range of housing stock, including a variety of housing types, tenure, locations and densities should be available. Government housing programs should complement private sector activities to meet the housing needs not satisfied by the private sector.
>
> H-02 - Range of Programs
> The diversity of housing problems and environments across the country requires a diversity of responses, and consequently, proposals for a one-program solution for all markets are inappropriate. A co-ordinated package of programs would provide the flexibility of choosing the best solution for local needs.
>
> H-03 - Municipal Role
> Municipal governments should have the discretionary authority to be the prime delivery agents for renewal and public sector housing. Further, municipalities should review and revise their regulatory practices in the housing field to meet these changing needs.
>
> H-04 - Social Housing
> The advantage of social housing as affordable housing for low and moderate income households must be recognized and maintained. The provincial government must sustain the existing public housing stock and provide funding for the development and acquisition of additional public housing, particularly

in those municipalities without non-profit or other social housing development. Changes may be necessary to upgrade the existing social housing stock for adaption to a more suitable form. Funding and technical assistance must be provided to municipalities and private groups to facilitate the establishment of non-profit housing corporations and co-operative housing projects. In certain situations there is a place for a rent supplement program as well as a shelter allowance program. Such programs should be viewed as components of a package of programs.

All clients determined to be in need of housing assistance should be eligible for such assistance.

H-05 - Commitment
Frequent changes in policy and programs, including federal unilateral termination of some programs, have seriously hindered the production of both social housing and private market housing. The federal and provincial governments must be committed to longer term development plans with funding commitments for at least three to five years to allow continuity in housing programs and a consolidated effort in planning for future needs.

H-06 - Consultation
Federal/provincial/municipal consultation should be an ongoing process in the formulation and evaluation of housing policies, programs, guidelines and legislation."

In short, affordable housing is a provincial responsibility, the funding of which should not be foisted off onto the municipalities.

VI FRONT-END FINANCING

Legislation would be required to clarify a municipality's ability to levy, collect and refund charges of this nature. Such legislation could be introduced and integrated with any general lot levy legislation which would be permissive. Front-end financing arrangements would be confirmed for sewer, water and road services, as they currently exist. A key element would be the authority to demand payment from subsequent developers. The obligation to reimburse would still be conditional on receipt of the revenues.

Under a front-ending agreement, the municipality would either leave the particular capital work(s) in its levy calculations and agree to repeat the initial developer from subsequent lot levy collections or remove the capital work(s) from its lot levy calculation. In this case, the system-wide lot levy would be reduced and a benefitting area for the capital work(s) would be established. Additional charges would be collected from future development within that area and refunded to the initial developer.

In the light of this, a municipality would have the authority to define the lands which may benefit from the construction of the "front-end" capital facility. The municipality would calculate a unit charge to recover the appropriate share of the costs refundable to the initial developer. The agreement establishing the benefitting area and unit charge would also include a provision to adjust the unit charge over time, in

conjunction with the generally available construction cost index. This is consistent with the philosophy inherent in the lot levy framework and would ensure that the initial developer receives a fair refund. Front-end payments could be made in money or by the provision of services or facilities in lieu of money.

The municipality would be required to give notice of the front-ending agreement to allow owners within the benefitting area, explaining the nature and purpose of the agreement. The agreement would be available in the municipal office for viewing during normal business hours. Any owner except a party to the agreement, could object to the agreement by notifying the municipality in writing within an allotted period of time.

If no objection was received within the time, the agreement would be deemed to have come into force. If there were objections, the municipality would pass the objection to the Ontario Municipal Board, which would hold a hearing to decide the issue.

The municipality would place all monies received from the parties to an agreement in a special account, and would use the funds only for the purposes for which they were collected. Further, the municipality would provide annually to the parties of the front-ending agreement a statement indicating the payments that had been made to or from the account, the account balance and any further payments, if any, required from the parties pursuant to the agreement. If the municipality failed to collect the agreed-to amounts from subsequent developers, the front-ending developer would have the right to appeal to the OMB and the board could compel the municipality to reimburse the front-ending developer.

AMO agrees except:

a. Front-end financing should not facilitate premature development nor encourage development of lands which are not designated nor zoned for such.

b. Procedures respecting notification, appeal and the role of OMB should be the same as those for lot levy by-laws.

c. The municipality should retain the primary responsibility for notification of all owners within the benefitting area. However the municipality must be provided with the legislated option of charging a reasonable administration fee for such service.

d. The reference to the right of appeal if the municipality fails to collect is unclear. If the failure to collect is traceable to negligence by the municipality, recourse through the courts is already available to the developer. If the failure to collect is caused by the lack of development in the relevant area, surely this is a risk to be borne by the developer who agrees to the front-ending arrangement. No guarantee of recovery by the municipality should be provided.

e. The AMO position, as expressed in Report 87-8, <u>AMO Discussion Paper on Lot Levies and Front-End Financing</u>, is:

> "There is agreement that the legislation should replace the present "best efforts" concept with a firm commitment on the part of the municipality to repay funds to the initial developer when and if future development occurs. The legislation must be worded, however, in a way which implies no municipal

liability or indebtedness with respect to the funds to be subsequently collected.

If no growth occurs, no funds will be collected and the municipality has no liability or indebtedness to the initial developer. Only when growth occurs are the charges collectible and the municipal liability will be limited to collecting charges at the appropriate time, if growth does occur, and refunding the amounts so collected to the initial developer. The liability of the municipality would be clearly limited to being contingent upon the collection of future charges."

February 22, 1989

Robert F. Nixon
Treasurer of Ontario
Ministry of Treasury & Economics
7th Floor
Frost Building South
7 Queens Park Crescent
Toronto, Ontario
M7A 1Y7

Dear Mr. Nixon:

Your December 12th, 1988 Green Paper entitled "Financing Growth Related Needs" has raised some grave concerns for municipal governments and the building and development industries across Ontario.

We are writing this letter on behalf of the Association of Municipalities of Ontario, the Ontario Home Builders' Association, the Urban Development Institute, and the Fair Rental Policy Organization as an attachment to our respective submissions responding to your Green Paper.

The Association of Municipalities of Ontario and building industry associations have worked in consultation with your government for several years now, to rationalize the use and administration of lot levies throughout the Province. To that end we commend your government for finally taking leadership in the form of the suggested legislation to govern levies.

The Green Paper, however, goes far beyond the parameters within which the municipalities and the building industry were working. The Green Paper suggests major changes in our system of taxation and municipal funding across the Province. We believe that the suggested changes are inappropriate.

For many decades the people of Ontario have expected their Provincial Government to assist municipalities in their fiscal obligations by redistributing funds collected through the various Provincial tax vehicles. In recent years, however, the Provincial contribution towards municipal funding requirements has been shrinking at an alarming rate. We fully realize that there are many complex reasons for the shrinking transfer payments to municipalities. We also recognize, however, that the pressures of growth on municipalities must be responded to in a practical and pragmatic way if we are to maintain the standard of living which we feel Ontario residents deserve.

If it is the intention of this Government to require municipalities to take on yet more financial responsibility for health, education, welfare and vital services such as sewage treatment, water supply and transportation then we believe the Government should make it perfectly clear to the public that this is what it intends.

The Association of Municipalities of Ontario and the building and development industries are firmly convinced that there is a requirement for a continuing partnership among the municipalities, the industries and the Province to pull their financial weight respectively in supplying, delivering and maintaining all the above vital services. While our organizations have from time to time been at odds over some growth-related issues we are firmly of one mind in the belief that the Ontario Government should reverse its present course. A capital levy for education purposes is unacceptable to all of us.

We trust you will give this very serious thought in your upcoming deliberations.

Yours truly,

President, AMO President OHBA, President, UDI Chairman of, FRPO

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VIII ACKNOWLEDGEMENTS

The Association's Preliminary Response to the Green Paper on "Financing Growth-related Capital Needs" was prepared by the AMO Lot Levy sub-committee and resourced by Mr. Sid Morehouse, Morehouse Economic Planning Consultants.

AMO expresses its appreciation to Mr. Morehouse for his expert assistance.

The Association also acknowledges the efforts of the sub-committee members:

- Doris Brick, Councillor, County of Peterborough, Immediate Past President AMO
- Jack Gartley, Commissioner of Finance, Regional Municipality of Durham
- Grant Hopcraft, Alderman, City of London, First Vice President AMO
- Bob Rooks, Director of Finance & Treasurer, City of Burlington
- Joe Rinaldo, Commissioner of Finance & Treasurer, Regional Municipality of Halton

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